

**Final Order Denying Refund: 01-20200382R
Individual Income Tax
For the Year 2019**

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Final Order Denying Refund.

HOLDING

The Department disagreed with Individuals' argument that the Department's adjustment to their originally filed 2019 Indiana income tax return was incorrect and that Individuals were entitled to their originally requested income tax refund; a review of an updated IRS transcript accurately reflected the Department's adjustment to the Indiana return.

ISSUE

I. Individual Income Tax - Federal Adjustment and Partial Refund Denial.

Authority: IC § 6-3-1-3.5(a); IC § 6-3-1-8; IC § 6-8.1-5-1; I.R.C. § 61(a); I.R.C. § 62; *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64 (Ind. 2009); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012).

Taxpayers argue that the Department erred in assessing additional Indiana Individual Income Tax and denying a portion of their originally requested income tax refund.

DISCUSSION

Taxpayers are Indiana residents who filed a joint 2019 IT-40 Indiana income tax return. On that return, Taxpayers originally reported approximately \$170,000 in federal adjusted gross income. The Indiana Department of Revenue ("Department") reviewed the Indiana return, cross-referencing it with federal information received from the Internal Revenue Service. The Department's review resulted in an adjustment to the amount of federal adjusted gross income from \$170,000 to approximately \$185,000. The adjustment resulted in an increase in the amount of Indiana adjusted gross income, an assessment of additional Indiana income tax, and a partial denial of the refund amount originally requested. The original amount requested was approximately \$1,300. That amount was reduced, and Taxpayers received an approximately \$600 refund.

Taxpayers disagreed with the assessment and the reduced refund. Taxpayers submitted a protest to that effect. An administrative hearing was conducted by telephone during which Taxpayers explained the basis for the protest. This Final Order Denying Refund results.

I. Individual Income Tax - Federal Adjustment and Partial Refund Denial.

DISCUSSION

Taxpayers argue that they are entitled to the originally requested refund amount because they can substantiate the business expenses reported on their 2019 federal and state tax returns.

In this instance, Taxpayers' protest stems in part from the Department's assessment of additional individual income tax. As a threshold issue, such a tax assessment is *prima facie* evidence that the Department's claim for the unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012). "[E]ach assessment and each tax year stands alone." *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64, 69 (Ind. 2009). Thus, the taxpayer is required to provide documentation explaining and supporting its challenge that the Department's assessment is wrong. Poorly developed and non-cogent arguments are subject

to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012).

The Indiana Adjusted Gross Income Tax Act defines "adjusted gross income," in the case of individuals, as the term is defined in I.R.C. § 62 with certain limitations specific to Indiana. IC § 6-3-1-3.5(a). Thus "adjusted gross income" is, "in the case of an individual, gross income minus . . . [certain] deductions." I.R.C. § 62(a). Similarly, the Indiana Act incorporates the definition of "gross income" as found in I.R.C. § 61(a). IC § 6-3-1-8. Therefore, "gross income" consists of "*all income from whatever source derived . . .*" I.R.C. § 61(a) (*Emphasis added.*)

After reviewing the federal transcript and the adjustments originally made by the IRS, the Department concludes that the adjustment to the Indiana return was correct. The Department did what it is required to do. IC § 6-8.1-5-1(b) states in relevant part that "[i]f the department reasonably believes that a person has not reported the amount of tax due, the department *shall* make a proposed assessment of the amount of unpaid tax on the basis of the best information available to the Department." (*Emphasis added.*) In this case, the "best information available" to the Department indicated that the adjustment to Taxpayers' return was correct. Taxpayers' documentation or explanation does not resolve the discrepancy between the federally-reported income and the Indiana-reported income. Taxpayers have failed to establish that the Department's decision was wrong.

FINDING

Taxpayers' protest is respectfully denied.

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